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10/573,537	04/12/2006	Ulf Deisenroth	DEISENROTH ET AL-1 PCT	5462
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COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			CAJILIG, CHRISTINE T	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,537	Applicant(s) DEISENROTH ET AL.	
	Examiner CHRISTINE T. CAJILIG	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-53 and 56-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-53 and 56-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/12/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: The reference "5" is used to describe both a connection element (see page 13) and a base plate (see page 15).

Appropriate correction is required.

Drawings

(1) The drawings were received on 3/12/09. These drawings are acceptable.

(2) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: connection element "5" in Figure 1 (see page 13), a standard container "12" (see page 15), a door "1.1" (see page 16), and attachment elements "6.2". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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(3) The Figures 1-8d are objected to because they are unclear due to the shading, and it is difficult to determine each component of the invention. Examiner will attempt to examine application as best possible with current set of drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 48, 53, and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 48 discloses that the housing has an accommodation system. However, claim 38 has already set forth that the housing has an accommodation system. Therefore, it is unclear as whether applicant attempts to claim another accommodation system or attempts to refer to the accommodation system of claim 38.

Claim 53 recites the limitation "the structures" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. Neither claims 38 or 49, from which claim 53 depends, sets for "structures" above which the accommodation system resides.

Claim 56 recites the limitation "the attachment system" in line 4 of the claim. There is insufficient antecedent basis for this limitation in the claim. Claim 38, from which claim 56 depends, fails to set for an attachment system.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38, 47-51, 61, and 66 are rejected under 35 U.S.C. 102(b) as being anticipated by Hönlinger (U.S. Publication No. 2002/0145308).

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Regarding claims 38 and 47, Hönlinger discloses a modular shelter system which is part of a vehicle, particularly for transport of persons and/or objects, comprising a capsule-shaped housing (24) produced at least partially by means of winding technology, that has a shape, at least on its underside, which guarantees the deflection of blast waves, and an accommodation system (2, 3, Par 0010) disposed within it, mounted so that it is uncoupled from a floor (1.3) of the housing (Par 0005), wherein the accommodation system comprises a base element (3) and one or more seats (Par 0010) disposed above the base element.

As best understood regarding claim 48, Hönlinger further discloses that the housing has an accommodation system for accommodation in a vehicle.

Regarding claim 49, Hönlinger further discloses that a space is present between the accommodation system that is uncoupled from the floor of the housing.

Regarding claim 50, Hönlinger further discloses that a shock-resistant, energy-resistant or impact resistant structures (4.1, 5) is disposed in the space.

Regarding claim 51, Hönlinger further discloses that the structures have a reinforcement structure (5) in the form of a floor support.

Regarding claim 61, Hönlinger further discloses that the base element rests on the structures (4.1) directly or by way of an intermediate layer.

Regarding claim 66, Hönlinger further discloses that the seats can be removed or disassembled from the shelter system.

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Claims 38, 39, 41, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Salari (U.S. Patent No. 1,281,846).

Regarding claim 38, Salari discloses a modular shelter system, particularly for transport of persons and/or objects, comprising a capsule-shaped housing (10) produced at least partially by means of winding technology, that has a shape, at least on its underside, which guarantees the deflection of blast waves, and an accommodation system disposed within it, mounted so that it is uncoupled from a floor of the housing, wherein the accommodation system comprises a base element (19) and one or more seats (18) disposed above the base element.

Regarding claim 39, Salari further discloses that the housing has a circular cross-section in the vertical section and in a section that runs at a right angle to its longitudinal axis.

Regarding claims 41 and 43, Salari further discloses that each housing has a door/ a door system or a passage opening on at least one side; and wherein the housing consists of metallic material (steel).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Forsyth et al. (US Patent 3,215,219).

Regarding claim 40, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that several container-shaped housings can be coupled with one another, directly or by way of adapter elements.

Forsyth et al. disclose coupling together modular shelter systems by way of adapter elements (50).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the modular shelter system of Hönlinger with an adapter element to couple several housings together. The motivation for doing so would be to carry more people or objects at once.

Claims 41-43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Ladika et al. (US Patent 5,663,520).

Regarding claims 41-43 and 46, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that wherein each housing has a door/ a door system or a passage opening on at least one side; wherein the door/the door system is blast-resistant and/or has a redundant emergency exit function; wherein the housing consists of fiber laminate material, metallic material concrete, or combinations thereof; and wherein the housing is armored.

Ladika discloses an armored, blast resistant vehicle wherein each housing has a door/ a door system (Fig. 6) or a passage opening on at least one side; wherein the

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door/the door system is blast-resistant (Column 4, lines 45-61) and/or has a redundant emergency exit function; wherein the housing consists of fiber laminate material, metallic material (Column 6, Line 1), concrete, or combinations thereof; and wherein the housing is armored (46).

It would have been obvious to a person having ordinary skill in the art at the time of the applicant's invention to modify the structure of Hönlinger to have the structure as taught by Ladika above to provide an armored vehicle with increased safety and protective features.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Miguel (US Patent 4,404,889).

Regarding claim 44, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that honeycomb structures, foams, or renewable raw materials are integrated into the housing.

Miguel discloses using a honeycomb structure (20 – Fig. 1) in the body of an armored vehicle.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the housing of Ladika et al. and Knoll et al. with a honeycomb structure in view of the teachings of Miguel. The motivation for doing so would be to increase the blast resistance of the housing.

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Claims 45 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger.

Regarding claims 45 and 52, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that the housing consists of at least partially of a blow-molded container or that the reinforcement structure is made from homogenous aluminum or fiber laminate. It would have been obvious to one having ordinary skill in the art at the time of invention to use a blow molded container for the housing and aluminum or fiber laminate for the reinforcement structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). A blow molded container would provide the shelter with added insulating properties as well as supply an economical means to manufacture the container. Aluminum and fiber laminate would provide a durable, readily available material.

As best understood claims 53, 57, 59, 60, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Knoll et al. (US Patent 6,378,939 B1).

Regarding claims 53, 57, 59, 60, and 63, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that the accommodation system above the structures (the floor?) is determined in its position by means of an attachment system which engages the housing above the space between the accommodation

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system and the floor; wherein the attachment system is formed by one or more first attachment struts articulated in the upper or lateral region of the housing which have a connection with the seats; and wherein the attachment system is configured to be shock-absorbing in one or more degrees of freedom and the seats are accommodated on the attachment element in a shock-absorbing manner.

Knoll et al. disclose an accommodation system (Figs. 1 - 2) above the floor that is position by means of an attachment system which engages the housing above the space between the accommodation system and the floor; wherein the attachment system is formed by one or more first attachment struts (138, 110) articulated in the lateral region of the housing which have a connection with the seats; and wherein the attachment system is configured to be shock-absorbing in one or more degrees of freedom and the seats are accommodated on the attachment element in a shock-absorbing manner (see Abstract)

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to mount the accommodation system of Hönlinger so that it is mounted as disclose by the teachings of Knoll et al. The motivation for doing so would be to provide the accommodation system with increased shock absorbing capability.

As best understood, claims 56 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Knoll et al. (US Patent 6,378,939 B1) and Hoffman (US Patent 6,267,440 B1).

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Regarding claims 56 and 65, Hönlinger discloses the structure discussed above, but does not disclose that each seat is connected with the base element and has a connection to the housing by an attachment system.

Knoll et al. disclose an accommodation system (Figs. 1 - 2) above the floor that is position by means of an attachment system articulated in the lateral region of the housing which have a connection with the seats.

Hoffman discloses wherein each seat is connected (10) with the base element/the base plate.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to mount the accommodation system of Hönlinger so that it is mounted as disclose by the teachings of Knoll et al and Hoffman. The motivation for doing so would be to provide the accommodation system with increased shock absorbing capability and to allow the seat to support more weight.

Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger and Knoll et al. as applied to claim 53 above, and further in view of Hoffman (US Patent 6,267,440 B1).

Regarding claim 58, Hönlinger and Knoll et al. further disclose that the attachment system is formed by wherein the attachment system is formed by means of one or more second attachment elements/struts (138) articulated on in the upper or lateral region of the housing but does not disclose that the attachment element has a connection with the base element/the base plate.

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Hoffman discloses wherein each seat is connected (10) with the base element/the base plate.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to attach the accommodation system of Hönlinger and Knoll et al. to the base element/base plate in view of the teachings of Hoffman to allow the seat to support more weight.

Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Bottcher et al. (CA 2402753).

Regarding claim 62, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that the base element does not rest against the housing.

Bottcher et al. discloses that an intermediate flooring may be entirely suspended at side walls of a housing via connectors (2) as to not rest against the housing to further minimize shock delivered to passengers during a blast.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the base element of Hönlinger to be suspended as to not rest against the housing as taught by Bottcher et al. to further minimize shock delivered to passengers during a blast.

Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hönlinger in view of Barecki (US Patent 3,630,566).

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Regarding claim 64, Hönlinger discloses the modular shelter system as set forth above, but does not disclose that two seats rest against one another with their backrest regions, in each instance, and have seating surfaces that face away from one another.

Barecki discloses a seating arrangement wherein two seats (22, 23) rest against one another with their backrest regions (20), in each instance, and have seating surfaces that face away from one another (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to provide the accommodation system of Hönlinger with the shared backrest seating arrangement in view of the teachings of Barecki. The motivation for doing so would be to increase the seating capacity of the modular shelter system.

Response to Arguments

Applicant's arguments with respect to claim 38 and claims dependent therefrom have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kendall, Jr. et al. (US 5297761); Summers (US 3294346); Kantrowitz et al. (US 3118636); Baier (US 138124); Cronkhite et al. (US 4593870); Sundstrum (US 3049835).

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is (571)272-8143. The examiner can normally be reached on Monday - Thursday from 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. T. C./
Examiner, Art Unit 3633

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635